

03560.001549.1

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

HIROHIKO ITOH

Application No.: 09/322,177

Filed: May 28, 1999

For: IMAGE PROCESSING APPARATUS  
AND IMAGE PROCESSING METHOD

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Examiner: D. Tran

Group Art Unit: 2624

June 22, 2004

RECEIVED

JUN 24 2004

OFFICE OF PETITIONS

Office of Petitions  
Commissioner for Patents  
Washington, D.C. 20231

PETITION UNDER 37 C.F.R. § 1.182  
TO AMEND ABANDONED APPLICATION BY INSERTING PRIORITY  
CROSS-REFERENCE DATA (SAMPSON PETITION)  
AND AMENDMENT

Sir:

Petitioners hereby petition the Commissioner under 37 C.F.R. § 1.182 to amend the abandoned parent of the present continued prosecution application to include domestic priority information as set forth below. The Commissioner is authorized to charge the \$130.00 petition fee set forth in 37 C.F.R. § 1.17(h), and any additional fee necessitated by the filing of this paper, to Deposit Account No. 06-1205.

## FACTS

(1) The present continued prosecution application has the following lineage:

(i) This application is a continued prosecution application filed under 37 C.F.R. § 1.53(d) on October 4, 2002 (hereinafter “the CPA application”); a Request for Continued Examination of the present CPA application was filed on January 22, 2004.

(ii) The CPA application is a continued prosecution application of Application No. 09/322,177 filed May 28, 1999 (hereinafter “the original ‘177 application”).

(iii) The original ‘177 application is a Rule 53(b) continuation of Application No. 08/528,423 filed March 12, 1998 (hereinafter “the ‘423 parent application”), which issued as U.S. Patent No. 5,923,437 on July 13, 1999 .

(iv) The ‘423 parent application is a continued prosecution application of Application No. 08/528,423 filed September 14, 1995 (hereinafter “the original ‘423 parent application”).

(2) The ‘423 parent application was identified in the application papers submitted at the time of filing the original ‘177 application.

(3) Filing of the CPA application effected an abandonment of the original ‘177 application pursuant to 37 C.F.R. § 1.53(d)(2)(v), which states that the CPA application “is a request to expressly abandon the [original ‘367 application] . . . .”

(4) 35 U.S.C. § 120 states that an application that seeks to claim the benefit of a filing date of a previously filed application must contain “a specific reference to the earlier filed application.” The original ‘177 application was not amended to include specific references to the ‘423 parent application before it was abandoned.

(5) Pursuant to operation of 37 C.F.R. § 1.53(d)(7), the CPA application itself need not be amended to include reference to its immediate parent (here, the original ‘177 application) since a request for the CPA “is the specific reference required by 35 U.S.C. 120 . . .”

(6) Since the specification of the original ‘177 application was not amended to include specific references to the ‘423 parent application, the status of the domestic priority chain of the CPA application is in question.

### ARGUMENT

(7) Petitioner is not seeking to amend the CPA application. Rather, Petitioner is seeking to amend the original '177 application, which was abandoned in favor of the CPA application, to include specific reference to the '423 parent application.

(8) Courts have granted permission to amend the specification of previously filed applications that are now abandoned in order to perfect a chain of priority under 35 U.S.C. § 120. See *Sampson v. Commissioner of Patents*, 195 U.S.P.Q. 136 (D.D.C. 1976). In *Sampson*, a patentee was granted permission to amend the specification of an abandoned parent application to perfect a priority chain while seeking re-issuance of a patent. See, also, <http://www.USPTO.gov/web/offices/dcom/olia/aipa/infoexch.htm>, which cites this case approvingly for these circumstances.

(9) Wherefore, granting of this petition and entry of the following amendment are respectfully requested.

IN THE SPECIFICATION OF THE ORIGINAL '177 APPLICATION:

Page 1, line 1, please insert the following sentence before the first line:

--This application is a continuation of continued prosecution Application No. 08/528,423 filed March 12, 1998, which issued as U.S. Patent No. 5,923,437 on July 13, 1999, which is a continued prosecution application of Application No. 08/528,423 filed September 14, 1995.--

REQUEST FOR EXPEDITED CONSIDERATION

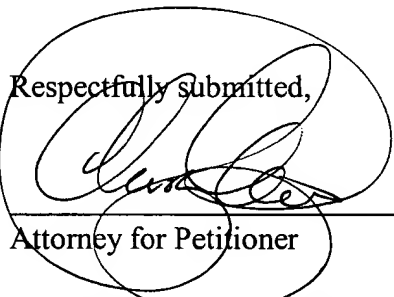
The Issue Fee due in the present application was paid on June 15, 2004. No patent has yet issued from the present application. It is respectfully requested that this Petition and Amendment be acted on expeditiously so that the cross-reference requirement is satisfied.

REQUEST FOR INTERVIEW

If any question arises and/or if there is any reason precluding the granting of this Petition and providing the relief requested, Applicant respectfully requests that the Office of Petitions contact Applicants' undersigned attorney to address any such question and/or reason to discuss such in a telephone interview or to schedule a personal interview.

Petitioner's undersigned attorney may be reached in our Washington, DC, office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

  
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Attorney for Petitioner

Registration No. 32078

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